

08-2410C



Texas Commission on Environmental Quality

PO Box 13087, MC-160, Austin, Texas 78711-3087
Telephone (512) 239-4691, FAX (512) 239-4770

APPLICATION FOR AMENDMENT TO A WATER RIGHT

Notice: This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.

Customer Reference Number (if issued): CN601366448

Note: If you do not have a Customer Reference Number, complete Section II of the Core Data Form (TCEQ-10400) and submit it with this application.

1. Name: North Texas Municipal Water District
Address: P.O. Box 2408
Wylie, Texas 75098
Phone Number: 972/442-5406 Fax Number: 972/295-8440
Email Address: tkula@ntmwd.com

2. Applicant owes fees or penalties?
☐ Yes ☒ No
If yes, provide the amount and the nature of the fee or penalty as well as any identifying number:

3. ☐ Permit No. _____ ☒ Certificate of Adjudication No. 08-2410, as amended
Stream: East Fork Trinity River Watershed: Trinity River Basin
Reservoir (present condition, if one exists): The dam forming Lake Layton is in good condition
County: Collin

4. Background:

(a) The North Texas Municipal Water District ("District") is the owner of Certificate of Adjudication ("CA") No. 08-2410, issued by the Texas Water Commission, a predecessor agency to the Texas Natural Resource Conservation Commission ("Commission"), on July 22, 1983, and authorizing the impoundment of 380,000 acre-feet of water in an existing dam and reservoir on the East Fork Trinity River located in Collin County, Texas, known as Lake Layton, and the use of 104,000 acre-feet of water per annum for municipal, industrial, and domestic purposes. The reservoir is owned and operated by the United States of America by the U.S. Army Corps of Engineers ("USACE").

(b) CA No. 08-2410A, issued by the Texas Water Commission on January 15, 1986, authorized (1) the District to divert and use 100,000 acre-feet of water per annum for municipal purposes and 4,000 acre-feet of water per annum for industrial purposes; (2) the District to divert and use not to exceed an additional 77,900 acre-feet of water per annum for municipal purposes by either overdrafting the firm yield of Lake Layton during times when Lake Ray Hubbard is at maximum conservation level (435.5' msl) and spilling or whenever additional water is

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WATER AVAILABILITY DIV.

delivered to Lake Lavon from Lake Texoma pursuant to the District's rights under Permit No. 5003; and (3) the District to reuse 8,988 acre-feet of water per annum, discharged into Lake Lavon through the District's Wilson Creek Wastewater Treatment Plant ("WCWWTP"), as authorized by Wastewater Discharge Permit No. 12446-001, or as much thereof each year as may actually be discharged into Lake Lavon.

(c) CA No. 08-2410B, issued by the Texas Water Commission on January 4, 1990, amended the District's reuse authorization to (1) divert and use not to exceed 26,957 acre-feet of water per annum discharged into Lake Lavon through the District's WCWWTP (as authorized by Wastewater Discharge Permit No. 12446-001); and, (2) recognize that the total use of water, for municipal purposes, authorized by Certificate No. 08-2410, as amended, and Permit No. 5003 (which authorized the District's interbasin transfer from Lake Texoma and use of 77,300 acre-feet per annum through Lake Lavon diversions), shall not exceed a total consumptive limit of 177,300 acre-feet per annum.

(d) CA No. 08-2410C, issued by the Commission on April 18, 1994, authorized an additional diversion point on Lake Lavon and an increase in the maximum diversion rate from the lake for municipal purposes.

(e) CA No. 08-2410D, issued by the Commission on May 9, 2000, authorized the District to divert and reuse not to exceed 35,941 acre-feet of water per annum discharged into Lake Lavon through the District's WCWWTP (as authorized by Wastewater Discharge Permit No. 12446-001); CA No. 082410D also reaffirmed that the total consumptive use of water authorized by CA No. 08-2410, as amended, and Permit No. 5003 for municipal purposes, shall not exceed 177,300 acre-feet of water per annum.

(f) On February 27, 2001, the Commission issued an amendment to Wastewater Discharge Permit No. 12446-001 to authorize an increase in the volume of discharges from the District's WCWWTP from 32 MGD to 64 MGD.

(g) The District is the owner of CA No. 03-4798, issued by the Texas Water Commission on March 31, 1987, which authorizes the District the right to impound in Chapman Lake, a reservoir located in the Sulphur River Basin, not to exceed 114,265 acre-feet of water per annum, and to divert and use for municipal purposes not to exceed 54,000 acre-feet of water per annum within the service area of the District in the Trinity River Basin.

(h) The District is the owner of CA No. 03-4797B, issued by the Commission on October 27, 1997, which authorizes the District's use of 6,000 acre-feet of storage in Chapman Lake and the right to divert and use for municipal purposes not to exceed 3,214 acre-feet of water per annum within the service area of the District in the Trinity River Basin.

(i) CA No. 08-2410E, issued by the Commission on September 8, 2005, authorized the District: (1) the right to increase the District's reuse authorization from Lake Lavon by 35,941 acre-feet per annum, for a total combined reuse authorization within CA No. 08-2410, as amended, of not to exceed 71,882 acre-feet per annum, or as much thereof each year as may actually be discharged into Lake Lavon from the WCWWTP, for municipal purposes; (2) pursuant to the District's rights under CA No. 03-4797, as amended, to divert and use not to exceed 44,900 acre-feet of water per annum from Lake Lavon for municipal purposes by

overdrafting the firm yield of Lake Lavon whenever Lake Ray Hubbard is at maximum conservation level (435.5' msl) and spilling, or whenever additional water is supplied from Chapman Lake as authorized by CA No. 03-4797, as amended, and CA No. 03-4798, for a total diversion and use of 57,214 acre-feet per annum; and, (3) a total consumptive use of water authorized by CA No. 08-2410, as amended, CA No. 03-4797, CA No. 03-4798 and Water Use Permit No. 5003, as amended, for municipal purposes within the District's service area of not to exceed 234,614 acre-feet per annum, or if water from Chapman Lake to Lake Lavon is not transferred, a total consumptive use of water authorized by CA No. 08-2410, as amended, of 222,200 acre-feet per annum.

(j) CA No. 082410F, issued by the Commission on July 6, 2007, authorized the District: (1) the right to divert from Lake Lavon not to exceed 157,393 acre-feet of return flows from sixteen (16) identified District or District customer-owned or operated wastewater treatment plants ("District WWTPs"), less losses; (2) the right to divert from the East Fork Trinity River into off-channel wetlands (the "East Fork Wetland"), for polishing purposes and subsequent transport by pipeline to Lake Lavon, not to exceed the actual amount of District return flows to the East Fork Trinity River, less losses; (3) the right to use the bed and banks of the East Fork Trinity River and its tributaries, including but not limited to Lake Ray Hubbard, to convey District return flows from District WWTPs to the East Fork Wetland diversion facilities on the East Fork Trinity River, located downstream of Lake Ray Hubbard; and, (4) the right to use the bed and banks of Lake Lavon and its tributaries to convey District return flows to the District's authorized points of diversion on Lake Lavon, for subsequent diversion and use by the District.

(k) On August 16, 2007, the Commission issued Permit No. 12152, which authorized the District to use the bed and banks of an unnamed tributary of Lake Lavon, and Lake Lavon, to convey water purchased from the Sabine River Authority of Texas ("SRA") pursuant to a water supply contract, for subsequent diversion and use for municipal and industrial purposes within the District's service area.

(l) On or about August 12, 2016, the District filed an application to amend CA 08-2410, as amended, to authorize the District to use the bed and banks of an unnamed tributary of Lake Lavon, and Lake Lavon, to convey water purchased from the Trinity River Authority of Texas ("TRA") pursuant to a water supply contract, for subsequent diversion and use for municipal and industrial purposes within the District's service area. Such application has been identified by TCEQ as Application No. CA 08-2410 I, and such application is currently pending before the agency.

5. Proposed Changes to Water Rights Authorizations.

Pursuant to applicable Commission procedural and substantive rules, and based on the District's rights under CA No. 08-2410F, Permit No. 12152, and the rights it seeks pursuant to Application No. CA 08-2410 I, the District seeks to amend CA No. 08-2410, as amended, to secure authorization to overdraft Lake Lavon during periods when the USACE's operation of Lake Lavon prevents the District from transporting water into Lake Lavon. In accordance with its operation of Lake Lavon, the USACE will not allow the District to transport water into Lake Lavon when Lake Lavon is above its maximum conservation storage level of 492'

msl. Therefore, these important water supplies afforded the District by its East Fork Wetland project and through its contracts with SRA and TRA, are unavailable during such conditions, which impairs the District's ability to meet the water demands of its current and future member cities and customers. By this application, the District seeks an amendment to CA No. 08-2410, as amended, to allow for the diversion and use of those annual volumes of the District's water supplies as authorized by CA No. 08-2410F and through its contracts with SRA and TRA, by overdrafting the firm yield of Lake Lavin whenever the Lake is above its maximum conservation storage level of 492' msl.

5. I understand the Agency may require additional information in regard to the requested amendment before considering this application.

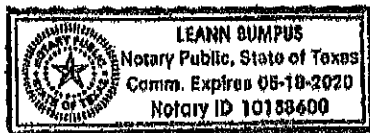
Thomas W. Kula
Name (sign)

Name (sign)

Thomas W. Kula
Name (print)

Name (print)

Subscribed and sworn to me as being true and correct before me this 28th day of June, 2016.



Leann Gumpus
Notary Public, State of Texas

Supplemental Diversion Point Information Sheet

N/A

Diversion Point No. _____

1) Watercourse: _____

Location of point of diversion at Latitude _____°N, Longitude _____°W, also, bearing _____° _____ feet (distance) from the _____ corner of the _____

_____ Original Survey No. _____, Abstract No. _____, in _____

County, Texas. (Provide the latitude and longitude coordinates in decimal degrees, to at least six decimal places. Indicate the method used to calculate the diversion point location).

3) Location from County Seat: _____ miles in a _____ direction from _____

_____ County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____

direction from _____, a nearby town shown on county highway map.

4) Zip Code: _____

5) The diversion will be (check (✓) all appropriate boxes and if applicable, indicate whether existing or proposed):

	Existing	Proposed
<input type="checkbox"/> Directly from stream		
<input type="checkbox"/> From an on-channel reservoir		
<input type="checkbox"/> From a stream to an off-channel reservoir		
<input type="checkbox"/> From a stream to an on-channel reservoir		
<input type="checkbox"/> From an off-channel reservoir		
<input type="checkbox"/> Other method (explain fully, use additional sheets if necessary)		

6) Rate of Diversion (Check (✓) applicable provision):

1. Diversion Facility:

A. _____ Maximum gpm (gallons per minute)

1) _____ Number of pumps

2) _____ Type of pump

3) _____ gpm, Pump capacity of each pump

4) Portable pump _____ Yes or _____ No

2. If by gravity:

A. _____ Headgate _____ Diversion Dam _____ Maximum gpm

B. _____ Other method (explain fully - use additional sheets if necessary)

7) The drainage area above the diversion point is _____ acres or _____ square miles.

Supplemental Dam/Reservoir Information Sheet N/A

Dam (structure), Reservoir and Watercourse Data

A. Type of Storage Reservoir (Indicate by checking (✓) all applicable)

☐ on-channel ☐ off-channel ☐ existing structure ☐ proposed structure* ☐ exempt structure**

*Applicant shall provide a copy of the notice that was mailed to each member of the governing body of each county and municipality in which the reservoir, or any part of the reservoir, will be located as well as copies of the certified mailing cards.

**TWC Section 11.143 for uses of water for other than domestic, livestock, or fish and wildlife from an existing, exempt reservoir with a capacity of 200 acre-feet or less. Please complete Paragraph B below if proceeding under TWC 11.143.

Date of Construction _____

B. Location of Structure No. _____

1) Watercourse: _____

2) Location from County Seat: _____ miles in a _____ direction from _____
_____ County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____ direction from
_____, a nearby town shown on county highway map.

3) Zip Code: _____

4) The dam will be/is located in the _____ Original Survey
No. _____, Abstract No. _____ in _____ County, Texas.

5) Station _____ on the centerline of the dam is _____' _____ (bearing), _____ feet
(distance) from the _____ corner of _____ Original
Survey No. _____, Abstract No. _____, in _____ County, Texas, also
being at Latitude _____°N, Longitude _____°W. (Provide the latitude and longitude
coordinates in decimal degrees, to at least six decimal places, indicate the method used to calculate the diversion point location).

C. Reservoir:

1) Acre-feet of water impounded by structure at normal maximum operating level: _____

2) Surface area in acres of reservoir at normal maximum operating level: _____

D. The drainage area above the dam is _____ acres or _____ square miles.

E. Other:

1) If this is a U.S. Natural Resources Conservation Service (NRCS) (formerly Soil Conservation
Service (SCS)) floodwater-retarding structure, provide the Site No. _____ and watershed
project name _____

2) Do you request authorization to close the "ports" or "windows" in the service spillway?

☐ Yes ☐ No

Supplemental Discharge Point Information Sheet N/A

Discharge Point No. or Name: _____

1) Select the appropriate box for the source of water being discharged:

☐ Treated effluent

☐ Groundwater

☐ Other _____

2) Location of discharge point will be/is at Latitude _____° N, Longitude _____° W,
also bearing _____° _____ feet from the _____ corner of the _____

Original Survey No. _____, Abstract No. _____, in _____ County, Texas.

Provide the latitude and longitude coordinates in decimal degrees, to at least six decimal places, and indicate the method used to calculate the diversion point location. (i.e., GPS Unit, USGS 7.5 Topographic Map, etc.)

3) Location from County Seat: _____ miles in a _____ direction from _____
_____ County, Texas.

Location from nearby town (if other than County Seat): _____ miles in a _____
direction from _____, a nearby town shown on county highway map.

4) Zip Code: _____

5) Water will be discharged into _____ stream/reservoir,
(tributaries) _____
_____ Basin.

6) Water will be discharged at a maximum rate of _____ cfs (_____ gpm).

7) The amount of water that will be discharged is _____ acre-feet per year.

8) The purpose of use for the water being discharged will be _____.

9) Additional information required:

For groundwater

1. Provide water quality analysis and 24 hour pump test for the well if one has been conducted.
2. Locate and label the groundwater well(s) on a USGS 7.5 Minute Topographic Map
3. Provide a copy of the groundwater well permit if it is located in a Groundwater Conservation District.
4. What aquifer the water is being pumped from?

For treated effluent

1. What is the TPDES Permit Number? Provide a copy of the permit.
2. Provide the monthly discharge data for the past 5 years.
3. What % of treated water was groundwater, surface water?
4. If any original water is surface water, provide the base water right number.

Section 2

Supplement to Application to Amend
Certificate of Adjudication No. 08-2410

**SUPPLEMENT TO APPLICATION TO AMEND CERTIFICATE OF ADJUDICATION
NO. 08-2410, AS AMENDED, PURSUANT TO TEXAS WATER CODE §11.122
NORTH TEXAS MUNICIPAL WATER DISTRICT**

In addition to the Texas Commission on Environmental Quality ("TCEQ" or the "Commission") Application Form (Form 10201), a narrative description of the authorization sought by this Application (the "Application") is provided in this Supplement. The following documents are also attached to this Supplement, and referred to herein as Exhibits A through F:

- A. Certificate of Adjudication No. 08-2410, as amended
- B. Authority to File Application
- C. Vicinity Map and USGS Topographic Quad Maps
- D. Approved NTMWD's 2014 Water Conservation Plan and Water Resource and Emergency Management Plan
- E. Application Fees
- F. Engineering Memorandum Regarding Impact to Other Water Rights or the Environment and digital files

I. Background Information

The North Texas Municipal Water District (the "District") provides wholesale treated water to member cities and customers in a service area covering all or parts of Collin, Dallas, Denton, Fannin, Grayson, Hopkins, Hunt, Kaufman, Rains, Rockwall, and Van Zandt Counties, Texas. The District is the owner of Certificate of Adjudication ("CA") No. 08-2410, issued by the Texas Water Commission, a predecessor agency to the Texas Natural Resource Conservation Commission ("Commission"), on July 22, 1983, and authorizing the impoundment of 380,000 acre-feet of water in an existing dam and reservoir on the East Fork Trinity River located in Collin County, Texas, known as Lake Lavon, and the use of water from Lake Lavon for municipal, industrial, and domestic purposes. The reservoir is owned and operated by the U.S. Army Corps of Engineers ("USACE").

CA No. 08-2410 has been amended a number of times, as noted in Exhibit A, attached hereto. Germane to this Application, CA No. 082410F, issued by the Commission on July 5, 2007, authorized the District: (i) the right to divert from Lake Lavon not to exceed 157,393 acre-feet of return flows from sixteen (16) identified District or District customer-owned or operated wastewater treatment plants ("District WWTPs"), less losses, for subsequent beneficial use (the "East Fork Wetland Supplies"); (ii) the right to divert from the East Fork Trinity River into off-channel wetlands (the "East Fork Wetland"), for polishing purposes and subsequent transport by pipeline to Lake Lavon, not to exceed the actual amount of District return flows to the East Fork Trinity River, less losses; (iii) the right to use the bed and banks of the East Fork Trinity River and its tributaries, including but not limited to Lake Ray Hubbard, to convey District return flows from District WWTPs to the East Fork Wetland diversion facilities on the East Fork Trinity River, located downstream of Lake Ray Hubbard; and, (iv) the right to use the bed and banks of Lake Lavon and its tributaries to convey the East Fork Wetland Supplies to the District's authorized points of diversion on Lake Lavon, for subsequent diversion and use by the District.

On August 16, 2007, the Commission issued Water Use Permit No. 12152, which authorized the District to use the bed and banks of an unnamed tributary of Lake Lavon, and Lake Lavon, to convey water purchased from the Sabine River Authority of Texas ("SRA") pursuant to a water supply contract (the "Upper Sabine River Basin Supplies"), for subsequent diversion and use for municipal and industrial purposes within the District's service area.

On or about August 12, 2015, the District filed an application to amend CA 08-2410, as amended, to authorize the District to use the bed and banks of an unnamed tributary of Lake Lavon, and Lake Lavon, to convey water purchased from the Trinity River Authority of Texas ("TRA") pursuant to a water supply contract (the "Main Stem Pump Station Supplies"), for subsequent diversion and use for municipal and industrial purposes within the District's service area. Such application has been identified by TCEQ as Application No. CA 08-2410 I, and such application is currently pending before the agency.

Additionally, because the owner and operator of Lake Lavon, USACE, has an operational protocol that prevents the District from importing water to Lake Lavon when the Lake is above its maximum conservation storage capacity of 492' msl, the District is often precluded from using its Upper Sabine River Basin Supplies and its East Fork Wetland Supplies to address the current and future water supply demands of its member cities and customers. Such operational protocol will also prevent the District from transporting its Main Stem Pump Station Supplies into Lake Lavon, once that right is granted.

These circumstances negatively impact the District's ability to address the current and future water supply demands of its member cities and customers, and this Application is intended to alleviate such impact.

On or about June 23, 2016, the District's Board of Directors adopted a resolution authorizing the filing of the Application. A copy of the resolution is included herewith as Exhibit B.

II. Applicant Information

Name of Applicant:	North Texas Municipal Water District
Address:	P.O. Box 2408, Wylie, Texas 75098-2408
Principal Contact:	Thomas W. Kula, Executive Director
Telephone:	(972) 442-5405
Fax:	(972) 295-6440

III. Source of Supply

The source of water associated with the Application is Lake Lavon, an impoundment on the East Fork Trinity River. Attached as Exhibit C1 is a Vicinity Map and attached as Exhibits C2 -- C5 are four (4) USGS Topographic Quad Maps, which identify the location of Lake Lavon, a currently authorized by the CA 08-2410, as amended.

IV. Requested Amendments to Water Right Authorization

The District proposes to amend CA No. 08-2410, as amended, to authorize it to overdraft Lake Lavon in lieu of transporting Upper Sabine River Basin Supplies, East Fork Wetland Supplies, or Main Stem Pump Station Supplies, and during times when Lake Lavon's elevation is at or above elevation 492' msl, the top of Lake Lavon's conservation storage. The amendment proposed by this Application will enable the District to meet the current and future needs of its member cities and customers when the operation of Lake Lavon by the USACE prevents the transport of water into Lake Lavon from these important sources of supply.

V. Diversion Information and Rate of Diversion

Currently, as specified in CA 08-2410, as amended, the diversion of water from Lake Lavon is permitted at anywhere along the perimeter of Lake Lavon, and at a maximum rate of 1,328 cfs (596,007 gpm). The District does not seek to amend the authorized maximum diversion rate as currently authorized in CA 08-2410, as amended, nor the point of diversion. No additional dams are proposed, no increase in the amount of water is requested, and no additional storage is sought by the Application.

VI. Water Conservation and Drought Contingency

The District adopted its 2014 Water Conservation Plan and Water Resource and Emergency Management Plan (the "WC/DC Plans") and submitted same to TCEQ pursuant to the requirements of 30 TAC Chapter 288. A copy of the District's WC/DC Plans is included herewith as Exhibit D. The District has included provisions that allow it to enforce conservation of supplies on customers, thereby making water available for future or alternative uses. As defined in both 30 TAC 295.9 and Texas Water Code § 11.002(8), "conservation" means those practices that will "... reduce the loss or waste of water, *improve the efficiency in the use of water*, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses." The District's Application proposes to allow for greater efficiency in its use of water throughout its service area.

VII. Administrative Requirements and Fees

This Application provides relevant information to address the administrative requirements of 30 TAC §295, Subchapter A and the requirements of Texas Water Code Chapter 11. In accordance with 30 TAC §295.131 and other TCEQ rules relating to fees, the District is submitting payment of \$101.25 with this Application, attached hereto as Exhibit E. With the filing of the Application, the District requests a determination of any additional fees that may be required. Upon receipt of such determination, the District will forward such fees to TCEQ.

VII. Beneficial Use

Texas Water Code §11.134(b)(3)(A) requires that proposed appropriations of water be intended for beneficial use. The "beneficial use" of water is defined in Texas Water Code §11.002(4) and 30 TAC §297.1(8) as the use of water "which is economically necessary for a purpose authorized by [Chapter 11 of the Texas Water Code]." In addition, "municipal" purpose of use is identified in Texas Water Code §11.023 as a purpose for which water may be

diverted and beneficially used. The District intends to provide water for this purpose of use and in a manner authorized for such purposes pursuant to CA 08-2410, as amended.

IX. Public Welfare

The Application will not be detrimental to the public welfare, for it will allow the District to provide water for beneficial uses, as defined by the Texas Water Code. Indeed, the Application will benefit the public welfare as it will improve the District's ability to supply the water demands of its member cities and customers.

X. Consistency with State and Regional Water Plans

All of the water sources referenced herein, including Lake Lavon, the Upper Sabine Basin Supplies, the East Fork Wetland Supplies, and the Main Stem Pump Station Supplies, are water management strategies for the District that are referenced in the most current regional and state water plans. The Application is not inconsistent with applicable state and regional water plans.

XI. Impacts on Other Water Rights Holders or the Environment

In light of an hydrologic assessment conducted by the District's consultants, attached hereto as Exhibit F, the granting of this amendment will not cause interference with our adversely affect any existing water rights holder or the environment.

XII. Additional Information

To the extent that additional information regarding the District's proposed amendment to CA 08-2410 is required, please contact the District's attorneys for this matter, Martin Rochelle at (512) 322-5810 or mrochelle@lglawfirm.com or Sara Thornton at (512) 322-5876 or sthornton@lglawfirm.com.